

REMARKS

In the Final Office Action, the Examiner rejected claims 1, 2, 5, 7-12, 14-26 and 29 and objected to claims 3, 4, 6, 13, 27 and 28. However, the Examiner indicated that claims 3, 4, 6, 13, 27, and 28 would be allowable if rewritten in independent form. Applicants submits the enclosed Rule 131 Declarations and the associated Exhibits A, B, C, and D pursuant to 37 C.F.R. § 1.131 to swear behind Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281). In view of this evidence and the following remarks, Applicants respectfully requests reconsideration and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Final Office Action, the Examiner rejected claims 1, 4, 7-9, 14-15 under U.S.C. § 102(b) as anticipated by Neukam (German Patent Application Publication No. DE19844644A1); and claims 1-2, 5, 8-10, 11-12, 16-26 and 29 under U.S.C. § 102(b) as anticipated by Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281). Claims 1, 9, 17, 20, and 25 are independent claims. Applicants respectfully traverse these rejections.

Legal Precedent

First, Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete*

detail as contained in the ... claim” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Second, the *drawings* of the cited reference must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 U.S.P.Q. 500 (CCPA 1979). Arguments based on dimensions of the drawing features are of little value where the reference does not disclose specific dimensions or any indication of whether the drawings are to scale. *See Hockerson-Halberstadt, Inc. v. Avia Group Int’l*, 222 F.3d 951, 956, 55 U.S.P.Q.2d 1487, 1491 (Fed. Cir. 2000).

Reliance on the Abstract of Neukam is Improper

Applicants note, initially, that because the Examiner has provided only a translation of the Abstract of the Neukam reference, Applicants presume that the Examiner is relying on the figures and the English-language Abstract of the Neukam reference, and not on the underlying (non-translated) text of the Neukam reference specification. Applicants respectfully remind the Examiner that it is improper for the Examiner to rely on the Neukam Abstract without obtaining and analyzing an English translation of the entire underlying Neukam reference. *See Ex parte Jones*, 62 U.S.P.Q.2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished); M.P.E.P. § 706.02 (explaining that the examiner *must* obtain a translation so that “the record is clear as to the precise facts the examiner is relying upon in support of the rejection”). Accordingly, Applicants respectfully request that the Examiner clarify if he is relying on the Neukam Abstract. *See* M.P.E.P. § 706.02 (“The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.”). Further: “When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection. In limited circumstances, it may be appropriate to make a rejection in a non-final Office action

based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and translation (if not in English) may be supplied in the next Office action.” M.P.E.P § 706.02 (emphasis in original). In accordance with M.P.E.P § 706.02, the Examiner is requested to supply a translation of the full text of the Neukam reference.

Claim Features Omitted from the Neukam Reference

Further, Applicants emphasize that the Neukam reference Abstract and drawings do not anticipate the present claims. For example, independent claim 1 recites a “*multiple fan chassis . . . mountable in an electronic device.*” Independent claim 9 recites a “*multiple fan tray disposed in the chassis.*” In sharp contrast, figures 1-4 of the Neukam reference depict single fans individually mounted without a *multiple fan chassis or tray*. Thus, any reasonable interpretation of the Neukam figures does not disclose all of the features of independent claims 1 and 9 or their dependent claims.

As another example, independent claim 1 recites a multiple fan chassis comprising “*airflow passages directed from the plurality of fan supports into the electronic device in the withdrawn access position.*” Independent claim 9 recites a multiple fan tray comprising “an airflow passage *pneumatically coupled* with the chassis *in . . . the extracted position.*” Conversely, the Neukam figures depict fans, when in a withdrawn position, as *not* blowing into the illustrated device. *See* Neukam, Figure 1. Therefore, figures 1-4 of the Neukam reference cannot reasonably be interpreted to disclose a chassis or tray having airflow passages directed into the device when in the withdrawn or extracted position. Thus, for these reasons as well, the Neukam reference Abstract and drawings do not disclose all of the features of independent claims 1 and 9 or the claims dependent thereon.

For these reasons, the Examiners rejections of claims 1, 4, 7-9, 14-15 under U.S.C. § 102(b) based on the Neukam reference Abstract and drawings cannot stand.

Thus, Applicants respectfully request that the Examiner withdraw the rejection and allow the claims.

Removal of the Hamagishi et al. Reference

In view of the earlier date of the invention of the subject matter disclosed and claimed in the present application, Applicants elect to remove Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281) pursuant to 37 C.F.R. § 1.131 (hereinafter “Rule 131”).

Under Rule 131, Applicants may overcome a rejection by filing an appropriate declaration that establishes invention of the claimed subject matter by Applicants prior to the effective date of the reference relied upon in the rejection. *See* 37 C.F.R. § 1.131. In summary, prior invention may be established by evidencing a reduction to practice of the subject matter of the claimed invention in the United States, a NAFTA country, or a WTO member country prior to the effective date of the cited reference. *See id.*

On the face of the document, the apparent effective date of Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281) is June 29, 2001. Accordingly, Applicants submit the enclosed Rule 131 Declarations of inventors of Daniel T. Thompson and Erik R. Nielsen, pursuant to Rule 131, signed by the inventors of record, to demonstrate that the invention disclosed and claimed in the present application was conceived and actually reduced to practice in the United States prior to the effective date of Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281).

Specifically, in paragraph 3 of each attached Rule 131 Declaration, the applicants/inventors declare that the subject matter disclosed and claimed in the above-referenced application was conceived prior to June 29, 2001. *See* Rule 131 Declaration of Daniel T. Thompson, Paragraph 3; Rule 131 Declaration of Erik R. Nielsen, Paragraph

3. In support of these Rule 131 Declarations, Exhibit A includes a redacted copy of a printout of an electronic message (e-mail) prepared and electronically transmitted prior to June 29, 2001. *See* Exhibit A. The printout shows the e-mail having an electronically attached zip file of computer-generated model pictures of the invention. *See id.* In further support of the Rule 131 Declarations, Exhibit B includes a printout of one of the computer-generated model pictures attached in the zip file that describes features recited in the instant claims. Applicants submit that Exhibits A and B in their entirety, along with the corresponding Rule 131 Declarations, are sufficient to demonstrate conception of the claimed subject matter prior to the June 29, 2001 effective date of Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281). *See* Rule 131 Declaration of Daniel T. Thompson, Paragraph 3; Rule 131 Declaration of Erik R. Nielsen, Paragraph 3; Exhibits A and B.

As indicated by paragraph 4 of each attached Rule 131 Declaration, the applicants/inventors declare that the invention disclosed and claimed in the present application was actually reduced to practice in the United States prior to June 29, 2001. Specifically, in paragraph 4 of each Rule 131 Declaration, the applicants/inventors declare that three prototypes were made, tested, and worked for their intended purpose prior to June 29, 2001. *See* Rule 131 Declaration of Daniel T. Thompson, Paragraph 4; Rule 131 Declaration of Erik R. Nielsen, Paragraph 4. In support of paragraph 4, Exhibit C includes a copy of a packing slip indicating shipment of the three completed prototypes of the invention prior to June 29, 2001. *See* Exhibit C. In addition, Exhibit D includes photographs of one of the three prototypes. *See* Exhibit D. Applicants submit that Exhibits C and D in their entirety, along with the corresponding Rule 131 Declarations, are sufficient to demonstrate actual reduction to practice of the claimed subject matter prior to the June 29, 2001 effective date of Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281). *See* Rule 131 Declaration of Daniel T. Thompson, Paragraph 4; Rule 131 Declaration of Erik R. Nielsen, Paragraph 4; Exhibits C and D.

In summary, Applicants submit that Exhibits A, B, C and D and the corresponding Rule 131 Declarations are sufficient evidence to demonstrate conception and subsequent actual reduction to practice of the claimed subject matter in the United States before the apparent effective date of June 29, 2001 of Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281).

In view of the evidence discussed above, Applicants respectfully request the Examiner remove Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281) from consideration and allow all pending claims.

Allowable Subject Matter

Applicants graciously acknowledge the Examiner's indication of the allowable subject matter of claims 3-4, 6, 13, 27 and 28. However, the Applicants do not choose to amend the claims at this time.

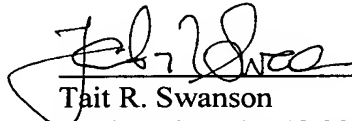
Serial No. 10/716,763
Request for Continued Examination (RCE)
and Response to Office Action
Mailed December 17, 2004

Conclusion

Applicants respectfully submit that all pending claims are in condition for allowance. However, if further prosecution might be expedited by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: March 17, 2005


Tait R. Swanson
Registration No. 48,226
(281) 970-4545

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400